

(1) Thirteenth Account and Report of Successor Conservator and (2) Petition for Compensation to Conservator and Her Attorney

Age: 62		PUBLIC GUARDIAN , Conservator, is Petitioner. Account period: 03/01/12 – 02/28/13 Accounting - \$769,015.91 Beginning POH - \$735,833.81 Ending POH - \$718,577.80 Conservator - \$1,984.96 (23.20 Staff hours @ \$76/hr. and 2.31 Deputy hours @ \$96/hr.) Attorney - \$1,000.00 (per Local Rule) Bond Fee - \$1,796.44 (ok) Petitioner prays for an Order: <ol style="list-style-type: none"> 1. Approving, allowing and settling the thirteenth account; 2. Authorizing the conservator and attorney's fees and commissions; 3. Authorizing payment of the bond fee; and 4. Finding that the conservatee is able to complete an affidavit of voter registration and is entitled to vote. Court Investigator Jennifer Daniel filed a report on 05/07/13.	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
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<input checked="" type="checkbox"/>	Aff.Mail w/		
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<input type="checkbox"/>	Letters		
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<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
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<input type="checkbox"/>	FTB Notice		
		Reviewed by: JF Reviewed on: 05/08/13 Updates: Recommendation: File 1A – Olguin	

Petition for Attorney's Fees [Prob. C. 1470(b)]

Age: 62		DAVID KNUDSON , Petitioner, was Court appointed to represent the Conservatee on 09/08/09 and then re-appointed on 06/27/11.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order.
Cont. from		PUBLIC GUARDIAN was appointed successor conservator of the person and estate on 12/13/96.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Petitioner requests fees in connection with the representation of the Conservatee.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Petitioner asks that he be paid from the conservatorship estate for 7.3 attorney hours @ \$275.00/hr. and 1.6 paralegal hours @ \$80.00/hr. for a total fee request of \$2,135.50.	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Services are itemized by date and includes meeting with client, reviewing court accountings, responding to the clients concerns, and contacting deputy public guardian as needed.	
<input checked="" type="checkbox"/>	Aff.Mail w/		
<input type="checkbox"/>	Aff.Pub.	Petitioner states that in his experience, the Conservatee appreciates having an attorney to represent her interests, to discuss her concerns with, and as necessary, to act as an advocate on her behalf and to explain court procedures and things that may arise. Petitioner believes it is in the best interest of the Conservatee that he continue to represent her and feels it will also be helpful in the ongoing administration of the conservatorship.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order x		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: JF

Reviewed on: 05/08/13

Updates:

Recommendation:

File 1B – Olguin

Age: 98		J. STANLEY TEIXEIRA , court appointed attorney for Thelma Day, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states that on 8/9/12 the Court appointed him to represent Thelma Day, and to perform any reasonable legal services in connection with this matter.	
Cont. from		Petitioner states he has rendered services in connection with the Order and on behalf of Thelma Day. Those services include the following: visiting Ms. Day to discuss issues at hand, investigating the needs of Ms. Day and ascertaining the most suitable legal and other procedures available for her benefit and to meet those needs; consulting with others concerned or involved with issues affecting Ms. Day's care, needs and living trust; and appearance at meetings, depositions and hearings on the matter, participation in settlement conference, resulting in settlement of matters.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Petitioner requests that he be paid \$4,341.02 for 17.4 hours @ \$250 per hour , and reimbursement for costs incurred in the amount of \$435.00 for a total fee request of \$4,776.02.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Wherefore, Petitioner prays for an order fixing and allowing compensation and costs incurred in the amount of \$4,776.02.	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
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<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
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<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: JF

Reviewed on: 05/08/13

Updates:

Recommendation:

File 2 – Day

Atty Ramirez, Jr., Edward R., of Ramirez Law Office (for Petitioner Deborah L. Miller)

(1) Report on Waiver Account and (2) Petition for Final Distribution for (3) Allowance of Compensation to Attorneys for Ordinary Services (Prob. C. 10954, 1060 et. seq., 10800, 10811, 12201)

DOD: 5/23/2007		DEBORAH L. MILLER , daughter and Administrator, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:	
				OFF CALENDAR	
Cont. from 041013		Accounting is waived.		Amended Report of Waiver of Account filed 5/3/2013, set for hearing on 6/11/2013.	
<input type="checkbox"/>	Aff.Sub.Wit.			1. <i>Petition</i> does not contain a statement regarding whether notice has been sent to the Franchise Tax Board as required pursuant to Probate Code 9202(c)(1) for estates in which <i>Letters</i> were issued 7/1/2008 or after, and Court records contain no proof of service of such notice. Need proof of service of notice to the Franchise Tax Board. 2. <i>Petition</i> does not contain a statement pursuant to Probate Code §§ 216 and 9202(b) regarding notice to the Director of the CA Victim Compensation and Government Claims Board. Petitioner is the sole heir of the estate and such notice appears unnecessary; however, the <i>Petition</i> should so state. ~Please see additional page~	
<input checked="" type="checkbox"/>	Verified	I & A	— \$351,124.14		
<input checked="" type="checkbox"/>	Inventory	POH	— \$370,847.40		
<input type="checkbox"/>	PTC		X		
<input checked="" type="checkbox"/>	Not.Cred.	Administrator	— waives		
<input type="checkbox"/>	Notice of Hrg		N/A		
<input type="checkbox"/>	Aff.Mail	Attorney	— \$10,022.48		
<input type="checkbox"/>	Aff.Pub.	(less than statutory)			
<input type="checkbox"/>	Sp.Ntc.				
<input type="checkbox"/>	Pers.Serv.				
<input type="checkbox"/>	Conf. Screen	Distribution pursuant to intestate succession is to:		DEBORAH L. MILLER? or [Unnamed] Trustee of the TED W. SAVELAND LIVING TRUST? – entire estate consisting of interests in real property mortgages and [\$ an unspecified amount of] cash.	
<input type="checkbox"/>	Letters	062112			
<input type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202	X			
<input checked="" type="checkbox"/>	Order				
<input type="checkbox"/>	Aff. Posting				
<input type="checkbox"/>	Status Rpt				
<input type="checkbox"/>	UCCJEA			Reviewed by: LEG	
<input type="checkbox"/>	Citation			Reviewed on: 5/8/13	
<input type="checkbox"/>	FTB Notice	X		Updates:	
				Recommendation:	
				File 3 - Saveland	

NEEDS/PROBLEMS/COMMENTS, continued:

3. *Final Inventory and Appraisal* filed on 10/22/2012 is incomplete at Item 5 re: property tax certificate, as required by Probate Code § 8800(d). Need statement regarding Property Tax Certificate. (Revenue and Tax Code § 480.)
4. Paragraph 13 of the *Petition* states Petitioner requests that all assets of the estate be distributed to the **TED W. SAVELAND LIVING TRUST**. Pursuant to Local Rule 7.12.5, if property in the estate is to be distributed to a pre-existing trust, the current trustee must file a declaration setting forth the name of the trust, its establishment date, and taxpayer identification number, verifying that the trust is in full force and effect, and that the trustee has an executed copy of the trust in possession. Need the name of the Trustee of the **TED W. SAVELAND LIVING TRUST**, as well as a declaration of trust to be filed with the Court prior to distribution of the estate.
5. Proposed order is inconsistent with the *Petition* in that the *Petition* requests distribution to the **TED W. SAVELAND LIVING TRUST** while the proposed order requests distribution to Deborah L. Miller pursuant to intestate succession. Additionally, the proposed order does not comply with Local Rule 7.6.1 (C) requiring that the order specifically note the amount of cash included in the balance of estate property on hand.

Note: Receipts reported during this account period are not included in the calculation of the statutory fee contained in Paragraph 15 of the *Petition*. Pursuant to Probate Code § 10800(b), statutory fee base calculation uses the total amount of the appraisal value of the property in the inventory plus receipts. Correct statutory fee calculation for this estate is **\$10,416.95**. Paragraph 15 states the fee base for calculation is "as agreed to by attorney and Petitioner" but does not make clear that the lesser amount requested for statutory attorney fees has been agreed upon by attorney and Petitioner such that the attorney is accepting less than statutorily allowed in fees. Court may require clarification.

Atty Burnside, Leigh W. (for Peggy L. Rodgers – Co-Trustee/Petitioner)

Petition for Relief from Mistake, Inadvertence, Surprise or Excusable Neglect; for Re-Appointment as Co-Trustee [CCP 473(b); Prob. C. 1000, 17200 et seq]

Robert DOD: 05/16/07		PEGGY L. ROGERS, Co-Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner alleges:	1. Need Order.
		1. Petitioner was a duly nominated and acting Co-Trustee of the Robert Lewis Rodgers and Betty Irene Rodgers Revocable Living Trust (the "Trust") dated 05/17/95. Petitioner is one of the daughters of Co-Settlers Robert Rodgers and Betty Rodgers.	
Cont. from 040813		2. Petitioner became a Co-Trustee of the Trust following the death of her father, Robert, on 05/16/07. Thereafter, the successor Co-Trustees of the Trust were the surviving Settlor, Betty Rodgers ("Betty"), Petitioner, and Petitioner's sister, Susan Rodgers McDonald ("Susan").	
	<input type="checkbox"/> Aff.Sub.Wit.	3. The principal place of administration of the Trust is Fresno County.	
✓	<input checked="" type="checkbox"/> Verified	4. On or about 10/17/12, Betty filed a Petition to Remove Trustee and to Appoint Successor Trustee in this proceeding. Therein Betty alleged that Petitioner had breached her duties as Co-Trustee under Probate Code § 15642 and requested the Court remove her as a Co-Trustee. The matter was heard by the Court on 12/04/12 issued an order removing Petitioner as Co-Trustee and appointing Bruce Bickel as the sole successor trustee of the Trust on 12/11/12.	
	<input type="checkbox"/> Inventory	5. Petitioner requests that the Court set aside the Order dated 12/11/12 under California Code of Civil Procedure § 473(b) on the grounds the Order was a the result of mistake, inadvertence, surprise or excusable neglect on the part of Petitioner. Petitioner was unaware that the petition had been filed and unaware of the proceeding. Had Petitioner known of the Petition and the hearing, she would have objected on the grounds that the allegations in the Petition are untrue.	
	<input type="checkbox"/> PTC		
	<input type="checkbox"/> Not.Cred.		
✓	<input checked="" type="checkbox"/> Notice of Hrg		
✓	<input checked="" type="checkbox"/> Aff.Mail w/o		
	<input type="checkbox"/> Aff.Pub.		
	<input type="checkbox"/> Sp.Ntc.		
	<input type="checkbox"/> Pers.Serv.		
	<input type="checkbox"/> Conf. Screen		
	<input type="checkbox"/> Letters		
	<input type="checkbox"/> Duties/Supp		
	<input type="checkbox"/> Objections		
	<input type="checkbox"/> Video Receipt		
	<input type="checkbox"/> CI Report		
	<input type="checkbox"/> 9202		
	<input type="checkbox"/> Order x		
	<input type="checkbox"/> Aff. Posting		
	<input type="checkbox"/> Status Rpt		
	<input type="checkbox"/> UCCJEA		
	<input type="checkbox"/> Citation		
	<input type="checkbox"/> FTB Notice		
		Continued on Page 2	Reviewed by: JF Reviewed on: 05/08/13 Updates: Recommendation: File 4 - Rodgers

6. Petitioner is a full-time employee of Kerman Unified School District. She lives in Fresno with her husband, Wayne King ("Mr. King"). Mr. King became permanently disabled in 1967 after suffering a traumatic brain injury. As a result of the injury, Mr. King has significant difficulties with his memory and needs assistance with daily living tasks. Petitioner's mother, Betty, and her sister, Susan, are familiar with Mr. King's disability and are well aware of his memory difficulties. Betty has long known that she must telephone Petitioner or personally notify her if she drops mail or other items at Petitioner's home while Petitioner is at work because Mr. King will either forget to tell Petitioner or will place the items somewhere in their home and forget them. Because of these circumstances, Betty made it a common practice to call Petitioner whenever she brought something over to her house while Petitioner was at work. By doing so, Petitioner was able to find whatever Betty had brought over since in most instances, Mr. King had forgotten that Betty had come by or had forgotten where the item had been placed.
7. At no time did Betty contact Petitioner to let her know that she had filed a petition accusing Petitioner of fiduciary misconduct and requesting that the Court remove Petitioner as a Co-Trustee. Further, at no time did Betty notify Petitioner directly to let her know that a copy of the Petition had been mailed to Petitioner's home. Accordingly, Petitioner was unaware of the Petition, unaware of the allegations by Betty, and unaware of the December 4, 2012 hearing. Had Petitioner known of the proceedings, she would have retained counsel, filed an objection and appeared at the hearing to challenge the allegations of misconduct.
8. On or about 01/08/13, Petitioner was looking through some paperwork in a drawer in her home and discovered a manila envelope she had not previously seen. Inside she found a copy of Betty's petition and a Notice of Hearing for the 12/04/12 date. Petitioner thereafter met with and retained legal counsel to represent her interests as Co-Trustee.
9. To Petitioner's knowledge, she was never served with a copy of the 12/11/12 Order removing her as Co-Trustee and appointing Bruce Bickel as sole successor trustee. Petitioner's counsel obtained a copy of the Order from Mr. Bickel after calling him to discuss the matter.
10. Petitioner requests the Court set aside its 12/11/12 Order on the ground that its entry was the result of mistake, surprise, inadvertence or excusable neglect on Petitioner's part, and allow her the opportunity to challenge the allegations in the petition. Petitioner asserts that she has always made every effort to accommodate her mother's needs in regard to the administration of the Trust and wishes to maintain shared responsibility for Trust administration as Co-Trustee for Betty's benefit.

Points & Authorities:

1. There is no dispute that a copy of Betty's Petition was mailed to Petitioner along with a Notice of Hearing for the 12/04/12 hearing.
2. Petitioner respectfully submits that the circumstances of her husband's disability warrant additional consideration. As noted, both of the other Co-Trustees, Betty and Susan, are well aware that Petitioner needs direct notification when important papers or other such items are delivered to her home because, without such notification, she will not know of the paperwork or its delivery. Further Betty should have known that Petitioner had not received the petition when she did not appear at the hearing on 12/04/12, did not file an objection, and did not contact her mother (Betty) about the allegations of fiduciary misconduct.
3. CCP § 473(b) states that the Court is empowered to relieve a party "upon any terms as may be just...from a judgment, dismissal, order, or other proceeding taken against him or her through his mistake, inadvertence, surprise, or excusable neglect." The reference to "judgment...order, or other proceedings" includes any step taken in a case, whether by the Court or by one of the parties: "Anything done from the commencement to the termination is a proceeding." (Zellerino v. Brown (1991) 235Cap.App.3d 1097, 1105)

Continued on Page 3

4. Here, Petitioner, through no fault or negligence of her own, was unaware of the Petition or the hearing thereon. Petitioner thus submits the Order should be set aside on the ground of surprise. "Surprise" refers to "some condition or situation in which a party...is unexpectedly placed to his injury, without any default or negligence of his own, which ordinary prudence could not have guarded against." (Credit Managers Ass'n of So. Calif. v. National Independent Business Alliance (1984) 162 Cal.App.3d 1166, 1173.)
5. Likewise, the Court may set aside an order entered as a result of "excusable neglect." (Cal. Code of Civ. Proc. § 473(b).) In such instance, the Court's focus is on whether the moving party has shown a reasonable excuse for the default. (Shapiro v. Clark (2008) 164 Cal.App.4th 1128, 1141-1142.) In other words, the moving party must show that the neglect was excusable, i.e. that the default could not have been avoided through the exercise of ordinary care. (Jackson v. Bank of America (1983) 141 Cal.App.3d 55, 58 (holding "the acts which brought about the default must have been the acts of a reasonably prudent person under the same circumstances").)
6. In the matter of Kesselman v. Kesselmen (1963) 212 Cal.App.2d 196, 207-208, the Court held that evidence that the defendant was seriously ill, or feeble, or unable to understand that he was being served with process, is sufficient to justify discretionary relief under section 473(b). Similarly, evidence that the defendant mislaid or misfiled the papers, and as a result failed to contact an attorney in time, may show "excusable neglect." (Bernards v. Grey (1950) 97 Cal.App. 2d 679, 683-686.) Neglect by a third person is also a sufficient basis for setting aside a default or order on the basis of "excusable neglect." (See, e.g., Benjamin v. Dalmo Mfg. Co. (1948) 31 Cal.2d 523, 526-527 (relief granted after defendant's secretary misunderstood defendant's instruction to send complaint and summons to defendant's attorney and instead put them in defendant's file); Fasuyi v. Permatex, Inc. (2008) 167 Cal.App.4th 681, 694 (relief granted where insured defendant promptly turned summons and complaint over to its insurance broker, who forwarded it to the insurer who inexplicably misplaced it and failed to file a timely answer).)
7. Petitioner, through no fault of her own, had no knowledge of the Petition filed by Betty. Had she known of the Petition, she would have retained counsel, filed an objection and deny the allegations of misconduct. Further, even were the Court to find that Petitioner's failure to discover or locate the Petition was negligent, she submits the neglect was excusable under the circumstances.
8. For these reasons, Petitioner respectfully requests the Court set aside its 12/11/12 Order pursuant to CCP 473(b) on the grounds of mistake, inadvertence, surprise, or excusable neglect, and allow Peggy the opportunity to defend the allegations of misconduct set forth in Betty's Petition. Petitioner further requests the Court reinstate her as a Co-Trustee of the Trust. [Petitioner's proposed objection attached].

Petitioner prays for an Order as follows:

1. Excusing her from the Order entered on 12/11/12, on the grounds of mistake, inadvertence, surprise and/or excusable neglect under CCP § 473(b).
2. Permitting Petitioner to file the proposed Objection attached to this Petition.
3. Reinstating Peggy as a co-trustee of the Trust until such time as the Court adjudicates the Petition and Petitioner's objection thereto; and
4. For reasonable costs incurred.

Age: 98		NO TEMPORARY REQUESTED		NEEDS/PROBLEMS/COMMENTS:	
		MONTIE S. DAY , son, is Petitioner and requests appointment as Conservator of the Person and Conservator of the Estate without bond and with Probate Code § 2590 powers.		CONTINUED FROM 04/02/13	
				Minute order from 04/02/13 states: Court informs counsel to make sure the issue with Ms. Day's care facility is taken care of.	
Cont. from 040213				Court Investigator advised rights on 03/15/13.	
	Aff.Sub.Wit.			Voting rights affected, need minute order.	
✓	Verified			As of 05/07/13, nothing further has been filed and the following items remain:	
	Inventory			1. Petitioner requests appointment without bond; however, effective 1/1/2008, pursuant to CRC 7.207, except as otherwise provided by statute, every conservator or guardian of the estate appointed after 12/31/2007, must furnish a bond, including a reasonable amount for the cost of recovery to collect the bond under Probate Code 2320(c)(4)). Per information provided in the Petition, bond should be set at \$25,960.00. Bond calculation worksheet in the file for reference.	
	PTC			2. Petitioners are requesting the court grant powers under Probate Code § 2590, which powers are outlined in § 2591. Any powers granted must be specified in the order. The submitted Order does not have an attachment outlining the requested powers. Need attachment 24 to the Order.	
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail				
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		<p>Petitioner alleges that Ms. Day suffers from dementia and Alzheimer's disease and has since before 2008. She has been incompetent to both manage her finances and/or resist fraud/undue influence since 2008. Ms. Day is currently residing in a care facility and requires total care. The management of Ms. Day's trust is currently being adjudicated in case 10CEPR00998 and Petitioner asks that the court take judicial notice of two physician's certificates attesting to Ms. Day's incompetence in that matter. Petitioner is requesting the power to sell personal or real property (other than the personal residence of the conservatee) of the estate without court confirmation and the power to pay, collect, compromise, or otherwise adjust claims, debts, or demands upon the conservatorship as described in subdivision (a) of § 2501, 2502 or 2504, or to arbitrate any dispute described in § 2406. Petitioner is requesting to be appointed without bond and states that in 1993, while competent, Ms. Day nominated him to serve as successor trustee of her trust and to serve without bond.</p> <p>Court Investigator Jennifer Daniel filed a report on 03/26/13.</p>			
		Continued on Page 2			
				Reviewed by: JF Reviewed on: 05/07/13 Updates: 05/09/13 Recommendation: File 5 - Day	

Supplement to Petition and Status Report Re: Continued hearing filed 05/08/13 by Petitioner, Montie Day, states:

1. Petitioner is not requesting medical consent powers.
2. Petitioner states that the petition states the personal assets of the conservatee is likely \$10,000.00, which is likely high. The Court has the right to waive bond with the finding of good cause. Petitioner states that the conservatee's personal assets consist of used furniture, two burial plots, and unknown contracts, including a contract for funeral services and the personal property included potential claims for misappropriated money which has since been "waived" as a result of the settlement in the trust litigation, and a small monthly social security benefit. Petitioner states that the nature of the assets make them unlikely to be misappropriated and the conservatee's monthly income is used for her care at a professional care facility and asserts that bond should therefore be waived or set at \$10.00.
3. Petitioner states that the §2590 powers requested are:
 - a. The power to sell at public or private sale real property of the estate without confirmation of the court of the sale, other than the personal residence of a conservatee.
 - b. The power to pay, collect, compromise, or otherwise adjust claims, debts, or demands upon the guardianship or conservatorship described in subdivision (a) of Section 2501, Section 2502 or 2504, or to arbitrate any dispute described in Section 2406.

By virtue of the "settlement" in the trust litigation, Thelma Day as an individual waives claims known or unknown with respect to all parties in the litigation which resulted in the depletion of the Thelma Day Trust assets, there are potential contingent obligations to pay debts and/or potential claims which may arise in the future and do not involve the Thelma Day Trust. Petitioner, as trustee of the Thelma Day Trust, may not "add" to the Thelma Day Trust assets, and may not contract for the benefit of Thelma Day. While the trustee acts on behalf of the Thelma Day Trust, the trustee has no recognized authority to act on behalf of Thelma Day the individual.

Atty Buettner, Michael M (for Petitioner David Hill)
 Atty Burnside, Leigh (for Respondents Kent Catich and Sharon Catich)

Petition Confirming Trustee, Instructing the Trustee, Determining Validity of Trust Amendments, Ascertaining Beneficiaries and Determining to Whom Property Shall Pass, and Determining Questions of the Construction of the Trust [Prob. C. 200(b)(1), (3), (4), (6), (10), 21700]

		<p>DAVID HILL, currently acting Trustee of the JACK G. CATICH REVOCABLE LIVING TRUST, is petitioner.</p> <p>Petitioner states on October 10, 1996, Jack G. Catich executed the Jack G. Catich Revocable Living Trust (the "Trust"). Settlor was the initial Trustee.</p> <p>Jack Catich died on 7/2/2013 at which time the Trust became irrevocable and Petitioner was the sole acting Trustee at that time.</p> <p>Settlor was not married and did not have any children. The Trust provides that upon the death of Settlor, the beneficiaries of the Trust were Dorothy Hunter as to 4/5, Victoria Dillman as to 1/10, Kent Catich as to 1/20 and Janie Scheffer as to 1/20. Dorothy Hunter was to be successor Trustee under the terms of the original trust. Dorothy Hunter is settlor's niece and Petitioner believes that Settlor and Dorothy spent a good deal of time together during Settlor's lifetime and that, for at least a part of settlor's life, they had a close relationship.</p> <p>Petitioner is the Settlor's nephew by marriage and Settlor and Petitioner have had a close relationship from the time Petitioner was a boy until the time of Settlor's death. Petitioner and Settlor shared many common interests including hunting, fishing and other outdoor activities and spent a great deal of time over the years engaging in these and other activities together.</p> <p style="text-align: center;">Please see additional page</p>	NEEDS/PROBLEMS/COMMENTS:				
Cont. from							
	Aff.Sub.Wit.						
✓	Verified						
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File 6 – Catich							

Petitioner alleges that while on a camping trip with the Settlor in September 2007 the Settlor confided in Petitioner that Dorothy Hunter had caused her name to be added to his accounts, and that he was offended because she had become greedy and wanted his money. He was concerned that Dorothy was exerting too much control and influence over him and that he was vulnerable to her wrongdoing due to his increasing age. Settlor asked for Petitioner's assistance in getting Dorothy off his accounts and extricating him from Dorothy's control over his finances. Settlor also told Petitioner that he wanted Petitioner to assist on his accounts instead of Dorothy. Petitioner states he was initially reluctant to become involved in the situation, but Settlor was persistent. Settlor promised that if Petitioner assisted him in getting Dorothy removed from positions of financial influence in his life, and assisted him with his finances and personal care, he would "take care" of petitioner and make up for the inconveniences and time to took to assist him with his financial and personal affairs.

On 9/18/2007 Petitioner accompanied Settlor to the Bank of America and WestAmerica Bank and Settlor removed Dorothy's name from his accounts at those institutions and added Petitioner's name. At the time Settlor was changing his accounts, Settlor discovered that Dorothy had removed \$115,000 from his WestAmerica account and placed in in an account at Fresno Police Department Credit Union without his knowledge or consent. Petitioner accompanied Settlor to Morgan Stanley, where Settlor had a brokerage account and Settlor revoked all authority Dorothy had over this account.

On 9/25/2007 Dorothy became aware that Settlor had removed his name from his accounts at which time Dorothy contacted Settlor and pressured him to change his mind and put her name back on the accounts and continued to pressure Settlor until October 2009.

In October 2007 Dorothy Hunter filed a Petition with Fresno County Superior Court to be appointed temporary and permanent Conservator of the Settlor. The Court Investigator determined that the Settlor was of sound mind and that a conservator was not needed. The Court Investigator Report indicates that the Settlor made it clear that he wanted petitioner to assist him with his finances if he needed the help. Settlor was interviewed and examined by a psychiatrist, Dr. Dwight W. Sievert, who also concluded that Settlor was competent to make decisions in his own life and that he was aware of the events that were happening around him and their implications. The conservatorship Dorothy requested was never granted.

In January 2008, Settlor met with Attorney Lawson Renge and caused a First Amendment to his trust to be prepared. Settlor signed the Amendment on 1/19/2008. The Amended added Petitioner as a co-trustee of the trust with Settlor. It also provided that upon Settlor's death, the trust estate would be distributed as follows: Certain specific gifts of personal property were made. David and Cheryl Hill would receive Settlor's residence. The remaining personal property would be distributed as follows: Kent Catich and Sharon Catich 35.9%, Joan Catich Seffer 3.9%, Shirley Diltman 1.9%, Verna Edman 3.9%, Eileen Martin 3.9%, Dorothy Hunter 1.9%, David Hill 35.9%, Linda Porasso 1.9%, and Marge Walter 6.9%. Settlor met with Mr. Renge alone and Petitioner believes Mr. Renge went to great lengths to ascertain that Settlor had not been subject to undue influence by Petitioner or anyone else. After Settlor executed the Trust Amendment, assisted Settlor in going to the various institutions where Settlor held assets and changing all of his accounts so that they were titled in the name of the Settlor and Petitioner as co-trustees of the Settlor's living trust. Petitioner believes that the institutions were careful to interview the Settlor alone and determine that he was changing title to the accounts of his own volition. Attorney Renge also prepared at Settlor's request a document by which Settlor revoked any power of attorney by which Settlor appointed Dorothy Hunter as attorney-in-fact.

Please see additional page

Shortly after 1/18/2008, Petitioner began to spend time assisting Settlor with his financial affairs and personal care, looking in on him frequently, and assisting him with ordinary tasks of life and continued to do so for the rest of his life. Settlor was approximately 92 at the time.

By the middle of 2009, Settlor was becoming very forgetful. He was physically frail and took a number of falls. Petitioner earned his livelihood as a wildland firefighter for the U.S. Forest Service. During the time Petitioner was caring for Settlor beginning in 2007 and continuing until Settlor's death in 2012, Petitioner had the opportunity to go on assignments as a firefighter and safety officer. The typical assignment duration is two weeks during which time the firefighter must go to the site of the fire and remain at the assignment 24-hours a day. During the six fire season when Petitioner was eligible and repeatedly asked to work these assignments, Petitioner refused calls for work due to the fact that he had promised Settlor that he would care for him. Petitioner state he has documentation that between 2007 and 2012 he was called for and refused assignments that would have involved 6,005 hours of work, which work would have earned him \$213,149. During the time Petitioner cared for Settlor, he paid himself \$20.00 per hour plus fuel and expenses. The total amount he paid himself from 2009 to the present was approximately \$40,000.00 plus fuel and expenses.

Beginning approximately 2009, Settlor's memory and mental faculties began to decline. Settlor became persistently confused regarding facts and events in his own life and could not remember pertinent information shortly after it was presented to him. In May and June of 2009 Settlor was the victim of elder abuse. He was befriended by a woman who went by the name of Gina Markus. Gina Markus either by fraud, criminal actions, and/or undue influence managed to gain access to Settlor's Morgan Stanley and Bank of America accounts and withdraw approximately \$37,000. Settlor at this time was very confused and had little or no recollection of any of the events involving this person. The police were called to investigate. Copies of law enforcement reports are attached as Exhibits "G" and "H". In the report the officer makes the observation that Jack Catich was easily confused and had difficulty remembering things and that Jack became frustrated because he could not remember things. The report also recommends having Settlor checked by a physician for dementia. In approximately, August 2009, a social worker from Fresno County investigated Settlor's situation and recommended that Settlor undertake an Alzheimer's study to determine Settlor's capacity.

Petitioner alleges that on 9/18/2009, Dorothy Hunter took Settlor to attorney Robert Koligian for the purpose of signing an additional amendment to his living trust which left the bulk of Settlor's assets to Dorothy. Petitioner believes that Dorothy was active in the procurement of the amendment of the living trust, coerced and persistently attempted to persuade Settlor to change his Trust, contacted Attorney Koligian, and took Settlor to the meetings with the attorney. The document entitled "First Amendment to the Jack G. Catich Revocable Living Trust Established on October 10, 1996" provided on Settlor's death for gifts of certain items of personal property, gave \$30,000 to David Hill, \$20,000 to Kent Catich, and all the rest of the trust estate to Dorothy Hunter. It also contains language that if the trustee fails or ceases to act, the Settlor shall have the power to designate a successor trustee. If the trustee ceases to act and no successor trustee is designated, the trustees would be Jack G. Catich, Dorothy Hunter and Alan Hunter, in that successive order. The document is erroneously called a First Amendment, but his is incorrect because the Settlor had previously executed a First Amendment on or about January 2008. Settlor would have known this was an error if he had been of sound mind.

Please see additional page

Dorothy Hunter knew that Petitioner had been assisting Settlor with his finances for approximately two years and that Petitioner was attorney-in-fact for Settlor, yet Dorothy never advised Petitioner that she was taking Settlor to an attorney, nor did she ever advise Petitioner of the existence of the amendment to the trust which was drafted by Attorney Koligian. Petitioner states he did not learn of the existence of the further amendment to the living trust drafted by Attorney Koligian until after the Settlor died.

Petitioner is alleging the following causes of actions:

UNDUE INFLUENCE

At all times relevant to this action and particularly in 2009, Dorothy Hunter had a confidential relationship with the Settlor, due to the fact that she was his niece, spent time with him at his home, took him out to dinner, and had previously assisted him with his financial affairs previously. Because of their long standing relationship and the fact that Dorothy was assertive and aggressive in her relationship with Settlor, Settlor reposed the trust and confidence in Dorothy as she had considerable influence over him.

LACK OF TESTAMENTARY, CONTRACTUAL CAPACITY AND CAPACITY TO AMEND A TRUST

In September 2009, Settlor was not of sound and disposing mind, and lacked the testamentary capacity, the capacity to enter into contracts, and the capacity to amend a living trust and understand the consequences of the act of amending his trust and the consequences of the bequests made, that would be necessary for him to change his estate plan. At the time he signed the document, Settlor did not have sufficient capacity to understand the nature of the act of executing the trust amendment, understand and recollect the nature of the situation of his property, and remember and understand all his relations to living family members and others whose interests are affected by his estate plan.

CONTRACT TO AMEND THE TRUST

Petitioner continued to handle the financial affairs of Settlor and care for Settlor until he died on 7/2/2012. Petitioner cared for Settlor at great financial cost to himself. He was required to forego work which would have earned him in excess of \$200,000 from 2007 through 2012 so that he could be available to take care of Settlor. Settlor had made a contract with Petitioner that he would take care of Settlor and compensate Petitioner for the time, effort, and inconvenience and financial sacrifice that such a commitment would entail to Petitioner. In exchange Petitioner promised Settlor that he would eliminate Dorothy Hunter's financial influence, take over Settlor's finances, and care for Settlor until he died. It was important to Settlor that he remained at home until he died, and Petitioner exerted great effort to make sure that Settlor's desires were honored.

Please see additional page

CONFIRMATION OF TRUSTEE

After Settlor died, Petitioner was advised that Settlor executed the purported amendment to the trust dated 9/18/2009. Petitioner continued to act as trustee as he had been for the last several years. Petitioner continued to act as trustee as he had been for the last several years, and has continued to pay Settlor's debts. Neither Dorothy Hunter nor anyone else objected to Petitioner's actions in continuing to act as Trustee.

After Settlor died, Petitioner met with Dorothy Hunter and attorneys Robert Koligian and Lawson Renge. At that time, all the parties agreed that Petitioner should continue to act as trustee of the Trust as he had been doing.

After Settlor died, Dorothy Hunter's son, Alan Hunter changed the deadbolt locks on the Settlor's residence, so that no one, including Petitioner, could gain access to it. This has made it impossible for Petitioner to secure and maintain the property.

In March 2013, Petitioner's attorney Michael Buttner contacted Dorothy Hunter through her attorney Gary Motsenbocker indicated that he was unable to contact Dorothy Hunter. After approximately one week, Petitioner has not received a response from Dorothy Hunter.

Petitioner alleges Dorothy Hunter believes she is trustee of the Trust. However, she has taken no action to serve as trustee. She has not offered to pay any bills, or take any of the administrative actions which are the responsibility of the Trustee. Within the last week, Dorothy went to Bank of America and Morgan Stanley to unilaterally have Settlor's accounts transferred to her name as trustee of the Trust. She did not give notice to Petitioner and Petitioner only learned of the activity when he received calls from both of the institutions.

Dorothy Hunter is not the legitimate successor trustee of the Trust. The amendment upon which she relies to claim trusteeship which was executed on 9/18/2009 was procured by undue influence and signed by the Settlor at a time when he lacked testamentary capacity and contractual capacity to know what he was doing.

Petitioner prays for an Order:

1. Appointing and/or confirming DAVID HILL as Trustee of the Jack G. Catich Revocable Living Trust.
2. Declaring that the document executed by Jack G. Catich on 9/18/2009 entitled: "First Amendment to The Jack G. Catich Revocable Living Trust Established on October 10, 1996" is rescinded and set aside and is null and void and of no force or effect.
3. Declaring that the document executed by Jack G. Catich on January 19, 2008 entitled: "First Amendment to Trust" is a valid and enforceable amendment to the Jack G. Catich Revocable Living Trust and declaring and decreeing that David Hill as Trustee of the trust follow its terms in settling up and disposing of the assets of the Jack G. Catich Revocable Living Trust.
4. As an alternative remedy, decreeing that Petitioner is entitled to 35.9% of the assets of The Jack G. Catich Revocable Living Trust under a valid and binding contract between Jack G. Catich and Petitioner.
5. As an alternative remedy, decreeing that Petitioner is entitled to receive \$213,149.00 from the trust estate either as a creditor pursuant to contract between Settlor and Petitioner.

Please see additional page

Response to David Hill's Petition filed by Kent Catich and Sharon Catich on 5/7/2013. Respondents Kent Catich and Sharon Catich named beneficiaries under the terms of the January 19, 2008 First Amendment to The Jack G. Catich Revocable Living Trust respectfully respond to David Hill's Petition. Respondents join the petition in so far as it challenges the validity of the September 18, 2009 Amendment on the ground of undue influence. Respondents believe the purported amendment was the result of the undue influence of Dorothy Hunter and, possibly, by her son Alan Hunter as well. Respondents further believe that Jack's physical and mental health had deteriorated by the time the purported Amendment was caused to be made and signed, and that such deterioration rendered Jack susceptible to the undue influences of others including, specifically, Dorothy Hunter and Alan Hunter.

Respondents believe that but for the undue influence of Dorothy Hunter and Alan Hunter, Jack would not have executed the instrument since such instrument did not represent his intent for the disposition of his assets upon his death.

Wherefore, Respondents pray for an Order as follows:

1. Determining the 9/18/2009 Amendment to the Trust to be invalid and unenforceable.
2. Determining the 1/19/2008 Amendment to the Trust to be valid and enforceable.
3. Confirming Petitioner David Hill as sole successor Trustee of The Jack G. Catich Revocable Living Trust.
4. Denying the existence of a valid and binding contract between Petitioner David Hill and Jack G. Catich whereby Jack G. Catich agreed to leave to Petitioner a specific portion of his estate for services rendered.
5. Denying Petitioner's claim for damages.

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 02/22/2013		GREGORY C. SIMONIAN , nephew is petitioner and request appointment as Administrator with Will annexed with bond set at \$1,423,000.00. Full IAEA- o.k. Will dated: 09/05/1996 Codicil: 02/02/2004 Residence: Fresno Publication: The Business Journal <u>Estimated Value of the Estate:</u> Personal property \$1,248,000.00 Real property \$175,000.00 Total: \$1,423,000.00	NEEDS/PROBLEMS/COMMENTS:	
			1. Need date of death of the decedent's parents per Local Rule 7.1.1 (D).	
Cont. from				
	Aff.Sub.Wit.		s/p	
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail		w/	
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 06/14/2013 at 9:00a.m. in Dept. 303** for the filing of the Bond **and**
- **Friday, 10/18/2013 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 07/18/2014 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Reviewed by: LV

Reviewed on: 05/08/2013

Updates:

Recommendation:

File 7 – Rudy

Sable, 11		NATASHA VASQUEZ , mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 04/22/13</u> 1. Need proof of service by mail of <i>Notice of Hearing</i> with a copy of the <i>Petition for Termination of Guardianship</i> at least 15 days before the hearing on: <ul style="list-style-type: none"> - Keith Carter (father) - Christopher Carter (paternal grandfather) - Joseph Vasquez (maternal grandfather) - Dracos Becker (brother)
Killian, 8			
		MARIE WESCOTT , non-relative, was appointed Guardian on 12/14/10. – <i>Served by mail on 03/03/13</i>	
Cont. from 042213		Father: KEITH CARTER	
	Aff.Sub.Wit.		
✓	Verified	Paternal grandfather: CHRISTOPHER CARTER	
	Inventory		
	PTC	Paternal grandmother: TAMERA COLLINSWORTH - deceased	
	Not.Cred.		
✓	Notice of Hrg	Maternal grandfather: JOSEPH VASQUEZ	
✓	Aff.Mail		
	Aff.Pub.	Maternal grandmother: SHELLY FULLERTON – <i>Served by mail on 03/03/13</i>	
	Sp.Ntc.		
	Pers.Serv.	Sibling: DRACOS BECKER (12)	
	Conf. Screen		
	Letters	Petitioner requests that the guardianship be terminated, and alleges that the guardian does not return phone calls or keep her informed on the welfare of the children. Petitioner alleges that the guardian is verbally hostile and misled the mediator when they attended mediation. Further, Petitioner alleges that the guardian has not kept the agreement that was made during mediation and hangs up on the mother during phone calls.	
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report	Court Investigator Jennifer Young filed a report on 04/16/13.	
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: JF
			Reviewed on: 05/07/13
			Updates: 05/09/13
			Recommendation:
			File 8 – Carter

Declaration of Natasha Vasquez, mother, filed 04/19/13 states: she does not feel that Marie Westcott is an appropriate guardian for her children. She states that she receives poor communication from Marie and she rarely responds to calls, texts, voicemails, or e-mails. Despite repeated requests, the guardian has failed to provide her information as to the children's health care and dental needs. Further, the guardian has failed to tell her when the children were having visitation with Pete Becker, her son Dracos' grandfather. Mr. Becker lives only 1.5 miles away and it would be a great opportunity for her to see the children since they live in Visalia which makes regular visits difficult. Ms. Vasquez states that the guardian fails to check the children's things when they come for a visit and Killian has been without appropriate clothing on more than one occasion. Ms. Vasquez states that she has had to buy him clothing so that he would have appropriate clothes to wear. Further, Ms. Vasquez states that Marie Westcott has lied to her, friends, the Court and the police. Ms. Vasquez states that she had a difficult time getting information from the Sheriff's department. She states that she understands the issues with Dracos and has done everything she has been told to do to care for him. She does not understand why she has been cut off from having communication with the children even though she had no role in the alleged occurrence. She states that she was not present when the events allegedly took place. She states that she didn't even know that Killian & Sable were at Pete Becker's house when the incident allegedly took place. She states that she loves her children and agrees that they should seek counseling. She states that she is able to help them and she now has a better understanding of their situation. She states that she is working to provide a future for herself and her children. She requests that the Court takes time with this delicate matter and has faith that something positive will come out of all of this.

Court Investigator Jennifer Young filed a Supplemental Report on 05/08/13.

Age: 13 years		TEMPORARY EXPIRES 5/13/2013		NEEDS/PROBLEMS/COMMENTS:	
				<p>Continued from 3/4/13. Minute order states the Court informs the Petitioner that the mother and father need to be personally served. The Petitioner is to cure the remaining defects. As of 5/8/13 the following issues remain:</p> <ol style="list-style-type: none"> 1. Petition does not include the names and addresses of the paternal grandfather and the maternal grandparents. 2. Need proof of <u>personal</u> service of the Notice of Hearing along with a copy of the Petition, or Consent and Waiver of Notice, or Declaration of Due Diligence on: <ol style="list-style-type: none"> a. William Anthony Santos (father) b. Viva Garcia (mother) c. Abrina N. Santos (minor) 3. Need proof of service of the Notice of Hearing along with a copy of the Petition, or Consent and Waiver of Notice, or Declaration of Due Diligence on: <ol style="list-style-type: none"> a. Paternal grandfather b. Maternal grandfather c. Maternal grandmother 4. UCCJEA is incomplete. Need residence information for the minor for 2007 – 9/20012. 	
Cont. from 030413					
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 5/8/13/13	
				Updates:	
				Recommendation:	
				File 9 - Santos	

Atty Raygoza, Gilberto (pro per – maternal grandfather/Petitioner)

Atty Raygoza, Martha E. (pro per – maternal grandmother/Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Isaac, 9	TEMPORARY EXPIRES 05/13/13	NEEDS/PROBLEMS/COMMENTS: 1. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Javier Cervantes (father)
Bryan, 6	GILBERTO RAYGOZA and MARTHA RAYGOZA , maternal grandparents, are Petitioners. Father: JAVIER CERVANTES Mother: CRYSTAL RAYGOZA – Personally served on 03/15/13 Paternal grandfather: AUGUSTINE CERVANTES – Served by mail on 04/24/13 Paternal grandmother: HERMELINDA CERVATNTES – Served by mail on 04/24/13 Petitioners allege that the parents are separated. The father is violent and the mother abuses drugs. She uses the money she gets on drugs and has failed to keep up the utilities in their home. She has had hallucinations and has been ripping the carpet off the floor. The bathroom of her home smells due to being used despite not having running water. Court Investigator Jo Ann Morris filed a report on 05/07/13.	
Cont. from		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		

Reviewed by: JF
Reviewed on: 05/08/13
Updates:
Recommendation:
File 10 – Cervantes

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 6 months		TEMPORARY EXPIRES 05/13/13		NEEDS/PROBLEMS/COMMENTS:	
		STEPHANIE ROBERTSON, paternal aunt, is Petitioner.		1. Need Notice of Hearing .	
		Father: JOSHUA ROBERTSON – Consent & Waiver of Notice filed 03/27/13		2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:	
Cont. from		Mother: DOMANIQUE KITCHENER – Consent & Waiver of Notice filed 04/25/13		<ul style="list-style-type: none"> - Orval Robertson (paternal grandfather) - Denise Fannon (paternal grandmother) - Maternal grandfather - Maternal grandmother 	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail	x			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	n/a			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
		Paternal grandfather: ORVAL ROBERTSON			
		Paternal grandmother: DENISE FANNON			
		Maternal grandparents: UNKNOWN			
		Petitioner alleges that both parents are incarcerated and not able to care for the minor.			
		Petitioner states that CPS has urged her to seek guardianship.			
		Court Investigator Julie Negrete filed a report on 04/25/13.			
				<p>Note: Per CI report, Petitioner stated that the child may have Indian ancestry and a Notice of Indian Child Custody Proceeding was mailed to the Petitioner, but has not been returned. If the child has Indian ancestry, the following items will be needed:</p> <p>1. Notice of Child Custody Proceeding for Indian Child (Form ICWA-030) to be completed and returned to the Probate Clerk's Office as soon as possible. See Probate Code §1460.2, and CA Rules of Court 7.1015.</p> <p>The general guardianship hearing cannot go forward unless this form has been served on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested.</p> <p>A blank copy of the form is in the file for Petitioner, and it should be completed and returned as soon as possible to the Probate Clerk's Office. The Probate Clerk's Office will complete service.</p> <p>A continuance of the general hearing will be required to ensure that the appropriate parties and agencies received 60 days' notice. See Probate Code 1460.2, and CA Rules of Court 7.1015.</p>	
Aff. Posting				Reviewed by: JF	
Status Rpt				Reviewed on: 05/09/13	
✓	UCCJEA			Updates:	
Citation				Recommendation:	
FTB Notice				File 11 – Robertson-Kichener	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 1		<p>MIGUEL MORA, maternal grandfather, is petitioner.</p> <p>Father: Not Listed</p> <p>Mother: JUANA ROSA MORA, Declaration of Due Diligence filed 03/13/2013</p> <p>Paternal Grandparents: Not Listed</p> <p>Maternal Grandmother: Juana Gonzales</p> <p>Petitioner states: the child was abandoned and left in petitioner's care since birth. Petitioner would like to keep him in his family and not be part of the state.</p> <p>Court Investigator Jennifer Young's report filed 05/03/2013.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • Father (Not Listed) • Juana Rosa Mora (Mother)- Unless the Court dispenses with notice. <p>Note: Declaration of Due Diligence filed on 03/13/2013 states petitioner has not seen the mother since June 2012.</p> <ol style="list-style-type: none"> 3. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • Paternal Grandparents (Not Listed) • Juana Gonzales (Maternal Grandmother)
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg x		
<input type="checkbox"/>	Aff.Mail x		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv. x		
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: LV</p> <p>Reviewed on: 05/09/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 12 – Mora</p>	

**Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820,
1821, 2680-2682)**

Age: 89 DOB: 02/09/1924		<p>ANDREA TERESA JIMENEZ, granddaughter, is petitioner and requests appointment as Conservator of the person.</p> <p>Voting Rights Affected</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 05/07/2013.</p> <p>Voting Rights Affected Need Minute Order.</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of service at least fifteen (15) days prior to the hearing of Notice of Hearing with a copy of the Petition for Appointment of Conservator for: <ul style="list-style-type: none"> • Richard Chavez • Ronald Chavez • Rodney Chavez • John Curtis • Tina Webster • Debbie Flint • Felicia Franco • Monica McBrety 																																															
<table border="1"> <tr><td colspan="2">Cont. from</td></tr> <tr><td></td><td>Aff.Sub.Wit.</td></tr> <tr><td>✓</td><td>Verified</td></tr> <tr><td></td><td>Inventory</td></tr> <tr><td></td><td>PTC</td></tr> <tr><td></td><td>Not.Cred.</td></tr> <tr><td></td><td>Notice of Hrg</td></tr> <tr><td></td><td>Aff.Mail</td></tr> <tr><td></td><td>Aff.Pub.</td></tr> <tr><td></td><td>Sp.Ntc.</td></tr> <tr><td></td><td>Pers.Serv.</td></tr> <tr><td>✓</td><td>Conf. Screen</td></tr> <tr><td>✓</td><td>Letters</td></tr> <tr><td>✓</td><td>Duties/Supp</td></tr> <tr><td>✓</td><td>Objections</td></tr> <tr><td>✓</td><td>Video Receipt</td></tr> <tr><td>✓</td><td>CI Report</td></tr> <tr><td></td><td>9202</td></tr> <tr><td>✓</td><td>Order</td></tr> <tr><td></td><td>Aff. Posting</td></tr> <tr><td></td><td>Status Rpt</td></tr> <tr><td></td><td>UCCJEA</td></tr> <tr><td>✓</td><td>Citation</td></tr> <tr><td></td><td>FTB Notice</td></tr> </table>				Cont. from			Aff.Sub.Wit.	✓	Verified		Inventory		PTC		Not.Cred.		Notice of Hrg		Aff.Mail		Aff.Pub.		Sp.Ntc.		Pers.Serv.	✓	Conf. Screen	✓	Letters	✓	Duties/Supp	✓	Objections	✓	Video Receipt	✓	CI Report		9202	✓	Order		Aff. Posting		Status Rpt		UCCJEA	✓	Citation	
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Recommendation:																																																		
File 13 – Chavez																																																		

Declaration filed by Andrea Teresa Jimenez, Petitioner, filed on 05/10/2013 includes letter in response to objection by Attorney for Richard Chavez. Ms. Jimenez states that her only intention to uproot her family from the Midwest and move them to Fresno was to care for her elderly grandmother who had raised her since the age of six. She states that she never discussed with the family members that her grandmother "promised" her the home. Ms. Jimenez says that her concern for her grandmother being alone was her only intention for moving in with her. Ms. Jimenez alleges that Richard Chavez, Objector, has repeatedly refused to leave the proposed conservatee's Glucose Testing Meter in the house so that Ms. Jimenez could test her sugar levels. Ms. Jimenez completed training as a Nursing Assistant/ Home Health Aid (attached is her certificate of completion). Petitioner does not believe that Richard Chavez or his family are caring for the proposed conservatee. Petitioner states that her grandmother has expressed to her that she is happy to have the petitioner and her family in her home.

Court Investigator Jennifer Young's report filed 05/07/2013.

Pro Per Sanchez, Rosa Elena (Pro Per Petitioner, maternal aunt)

Petition for Appointment of Temporary Guardian of the Person
(Prob. C. 2250)

Maria Age: 17 years	<p>TEMPORARY GRANTED EX PARTE EXPIRES 5/13/2013</p> <p><u>General Hearing set for 7/1/2013</u></p> <p>ROSA ELENA SANCHEZ, maternal aunt, is Petitioner.</p> <p>Father: PEDRO CARDONA</p> <p>Mother: CARMEN LETICIA SANCHEZ</p> <p>Paternal grandfather: Unknown Paternal grandmother: Unknown</p> <p>Maternal grandfather: Jesus Sanchez Maternal grandmother: Rosalinda Sanchez</p> <p>Petitioner states the mother has been unstable and violent towards the children because of drug use, there is a pending and on-going CPS investigation, and CPS released the children to her care on 4/20/2013. Petitioner states the children fear their mother as she is verbally and physically abusive. Petitioner states she has taken part in raising the children they have lived with her for 7 years before, and her home has been the only stability they've known.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of five (5) court days' notice by personal service of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Guardian</i>, or <i>Consent to Appointment of Guardian and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> • Carmen Leticia Sanchez, mother; • Pedro Cardona, father; • Maria Cardona, proposed ward (age 17); • Carmelita Cardona, proposed ward (age 15). 3. <i>UCCJEA</i> form filed on 4/29/2013 does not provide residence information for the last 5 years as required. 	
Carmelita Age: 15 years			
Pedro Age: 10 years			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			X
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			X
✓ Conf. Screen			
Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

Reviewed by: LEG
Reviewed on: 5/8/13
Updates:
Recommendation:
File 14 – Cardona & Sanchez

(1) Petition for Settlement of Eighth Account Current and Report of Trustee and
(2) Approval of Trustee and (3) Attorney's Fees and Costs

Age: 19		BANK OF THE WEST , Trustee without bond, is Petitioner. Account period: 11-1-10 through 12-31-12 Accounting: \$660,407.68 Beginning POH: \$402,144.39 Ending POH: \$420,233.74 (\$23,421.39 cash, residence, wheelchair, laptop, lien on van) Trustee: \$250.00 for preparation of this account Trustee: Ratification of compensation paid on a monthly basis during this account period totaling \$7,044.61 (.75% - less than fee schedule 1.30%) plus \$1,000.00 for preparation of income tax returns (less than fee schedule) IBAR: Ratification of compensation paid on a monthly basis during this account period totaling \$7,043.02 (.75% market value excluding annuities) Attorney: \$16,588.00 (pursuant to separate fee declaration, for 80.60 hours @ \$75-375 hr) Costs: \$226.00 (certified copy, filing) Petitioner requests an order: <ol style="list-style-type: none"> 1. Settling, allowing and approving the account and ratifying, confirming and approving all acts and transactions of Petitioner relating to the account; 2. Allowing compensation to Petitioner of \$250 for preparation of this account; 3. Ratifying compensation paid to Petitioner of \$7,044.61 plus \$1,000.00 for preparation of income tax returns; 4. Ratifying compensation paid to IBAR of \$7,043.02; 5. Authorizing continued payment to IBAR at the same rate as currently being charged; 6. Authorizing payment to Dowling Aaron Incorporated for fees and costs totaling \$16,814.00; 7. Allowing Hector Medina to continue to receive payments for attendant care with said aggregate cap to increase by 3% per annum; 8. That no bond be required of Petitioner; and 9. For such other and further orders as this Court may deem proper. 	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4-30-13</u> Minute Order 4-30-13: Ms. Burnside informs the Court that the purchase of the van has been put-off. The Court directs both counsel to communicate with one another with respect to the issue regarding the trustee. Continued to 5-13-13. Note: The Court previously authorized funds up to \$60,000 the purchase of a new van with modifications for the beneficiary's benefit on 7-7-11; however, this petition states a new vehicle has not yet been purchased. The Court may require status on the current van and the proposed purchase, as this request was made over two years ago in January 2011.
Cont. from 043013			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail <small>W</small>		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	2620(c)		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Age: 1 year		<u>GENERAL HEARING 7/1/2013</u>		NEEDS/PROBLEMS/COMMENTS:	
		ROSEMARY J. SAMBRANO , cousin, is petitioner.		THIS PETITION IS FOR JOSHUA GONZALEZ ONLY.	
Cont. from		Father: JOSE LUIS GONZALEZ		Guardianship of Promise Gonzalez was previously granted to Roxane Hinojoza on 9/4/2010.	
	Aff.Sub.Wit.				
✓	Verified	Mother: PRECIOUS RAMIREZ			
	Inventory	Paternal grandfather: Not listed			
	PTC	Paternal grandmother: Juanita Rivera			
	Not.Cred.	Maternal grandfather: Not listed			
	Notice of Hrg	X	Maternal grandmother: Roxann Hinojoza	1. Need Notice of Hearing.	
	Aff.Mail	X	Petitioner states father is in jail. Mother is homeless and left the child.	2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Jose Luis Gonzalez (father) b. Precious Ramirez (mother)	
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 5/9/2013	
				Updates:	
				Recommendation:	
				File 16 – Gonzalez	

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 02/15/2013	AMBER LYNNE WHITE , daughter/named executor without bond, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Minute Order of 05/06/2013 states there was no appearance. The following issues still remain: 1. Proposed personal representative is a resident of Lincoln, Arkansas. Probate Code §8571 states notwithstanding a waiver of bond, the Court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the Court. Note: If the petition is granted status hearings will be set as follows: <ul style="list-style-type: none"> • Friday, 10/11/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Friday, 07/11/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
	Petitioner is a resident of Lincoln, Arkansas.	
Cont. from 050613		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	Full IAEA – o.k.	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	Will dated: 10/23/2006	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Residence: Fresno	
<input checked="" type="checkbox"/> Aff.Mail	Publication: The Business Journal	
<input checked="" type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Estimated value of the Estate:	
<input type="checkbox"/> Pers.Serv.	Real property - \$200,000.00	
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	Probate Referee: Rick Smith	
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: LV
		Reviewed on: 05/09/2013
		Updates:
		Recommendation:
		File 17 – Doolittle